

AMENDMENT NO. 3214

Mr. DOMENICI. There is an amendment at the desk to the bill. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. MURKOWSKI, proposes an amendment numbered 3214.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

**SEC. 1. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.**

Section 5 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes", approved March 10, 1966 (Public Law 89-366; 16 U.S.C. 459g-4), is amended by inserting "(a)" after "SEC. 5.", and by adding at the end the following new subsection:

"(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the 'seashore'): *Provided*, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

"(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

"(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

"(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

"(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

"(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

"(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or

"(C) except in the case of an emergency, or to protect public health and safety.

"(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

"(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.

"(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore."

Mr. DOMENICI. Mr. President, I ask unanimous consent the amendment be agreed to, the committee amendment as amended be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, any statements re-

lating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3214) was agreed to.

The committee amendment, as amended, was agreed to.

The bill was considered read a third time and passed as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 765) entitled "An Act to ensure maintenance of a herd of wild horses in Cape Lookout National Seashore," do pass with the following amendment:

Strike out all after the enacting clause and insert:

**SECTION 1. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.**

*Section 5 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes", approved March 10, 1966 (Public Law 89-366; 16 U.S.C. 459g-4), is amended by inserting "(a)" after "Sec. 5.", and by adding at the end the following new subsection:*

*"(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the 'Seashore'): Provided, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).*

*"(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—*

*"(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and,*

*"(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.*

*"(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—*

*"(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or*

*"(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or*

*"(C) except in the case of an emergency, or to protect public health and safety.*

*"(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.*

*"(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.*

*"(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore."*

**THE CALENDAR**

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate

now proceed to the consideration of the following bills: Calendar No. 443, S. 638; Calendar No. 349, S. 1069; Calendar No. 350, S. 1132; Calendar No. 444, S. 1043; Calendar No. 467, S. 1418; Calendar No. 454, S. 1510; Calendar No. 406, S. 1683; Calendar No. 464, S. 1695; Calendar No. 448, S. 1807; Calendar No. 450, H.R. 434; Calendar No. 445, H.R. 1439; Calendar No. 398, H.R. 1460; Calendar No. 446, H.R. 1779; Calendar No. 451, H.R. 2165; Calendar No. 452, H.R. 2217 and Calendar No. 453, H.R. 2841.

Mr. President, I ask unanimous consent that any committee amendments be agreed to; that the bills be read a third time and passed, as amended, if amended; that the motions to reconsider be laid upon the table; that any statements relating to the bills appear at the appropriate place in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

**MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT COMPLETION ACT**

The Senate proceeded to consider the bill (S. 638) to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Mount St. Helens National Volcanic Monument Completion Act".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—Congress finds that—

(1) the Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (96 Stat. 301; 16 U.S.C. 431 note), required the United States to acquire all land and interests in land in the Mount St. Helens National Volcanic Monument;

(2) the Act directed the Secretary of Agriculture to acquire the surface interests and the mineral and geothermal interests by separate exchanges and expressed the sense of Congress that the exchanges be completed by November 24, 1982, and August 26, 1983, respectively; and

(3) the surface interests exchange was consummated timely, but the exchange of all mineral and geothermal interests has not yet been completed a decade and a half after the Act's enactment.

(b) PURPOSE.—The purpose of this Act is to provide for the expeditious completion of the previously mandated Federal acquisition of private mineral and geothermal interests within the Mount St. Helens National Volcanic Monument.

**SEC. 3. ACQUISITION OF MINERAL RIGHTS WITHIN THE NATIONAL VOLCANIC MONUMENT.**

Section 3 of the Act entitled "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes", approved August 26, 1982 (96 Stat. 302; 16 U.S.C. 431 note), is amended—

(1) in subsection (a), by striking "and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the

sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of this Act"; and

(2) by adding at the end the following:

"(g) **EXPEDITIOUS COMPLETION OF MINERAL AND GEOTHERMAL INTERESTS.**—

"(1) **DEFINITION OF HOLDER.**—In this subsection, the term 'holder' means a company, or its successor, referred to in subsection (c).

"(2) **IN GENERAL.**—Within the period described in paragraph (7), the Secretary of the Interior shall acquire by exchange the mineral and geothermal interests in the Monument of each holder.

"(3) **MONETARY CREDITS.**—

"(A) **ISSUANCE.**—In exchange for the mineral and geothermal interests acquired by the Secretary of the Interior from a holder under paragraph (2), the Secretary of the Interior shall issue to the holder monetary credits that may be exercised by the holder for payment of—

"(i) not more than 50 percent of the bonus or other payments made by successful bidders in any sales of mineral, oil, gas, or geothermal leases under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.); or

"(ii) not more than 50 percent of any royalty, rental, or advance royalty payment made to the United States to maintain any mineral, oil or gas, or geothermal lease issued under the Acts listed in clause (i).

"(B) **VALUE OF CREDITS.**—The credits issued under subparagraph (A) shall equal the fair market value of all mineral and geothermal interests conveyed in the exchange as determined under paragraph (4).

"(C) **ACCEPTANCE OF CREDITS.**—The Secretary of the Interior shall accept credits issued under subparagraph (A) in the same manner as cash for the payments described in subparagraph (A). The use and exercise of the credits shall be subject to the laws (including regulations) governing such payments, to the extent the laws are consistent with this subsection.

"(D) **TREATMENT OF CREDITS FOR DISTRIBUTION TO STATES.**—All amounts in the form of credits accepted by the Secretary of the Interior under subparagraph (C) for the payments described in subparagraph (A) shall be considered to be money received for the purpose of section 35 of the Mineral Leasing Act (30 U.S.C. 191) and section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019).

"(4) **VALUATION OF INTERESTS.**—

"(A) **IN GENERAL.**—Not later than 120 days after the date of enactment of this subsection, the mineral and geothermal interests to be conveyed by each holder in the exchanges required by paragraph (2) shall be valued by one of the following methods, as selected by the Secretary of the Interior:

"(i) **USE OF APPRAISAL REPORT.**—The 1982 value established by the report of the third party appraisal completed on September 11, 1991, shall be adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7), or such other value as shall be mutually agreed to by the Secretary of the Interior and the holders not later than 30 days after the date of enactment of this subsection.

"(ii) **NEW APPRAISAL.**—

"(I) **SELECTION OF APPRAISER.**—Not later than 30 days after the date of enactment of this subsection, the Secretary of the Interior and the holders shall mutually agree on the selection of a qualified appraiser to conduct an appraisal of the mineral and geothermal interests.

"(II) **NO AGREEMENT ON APPRAISER.**—If no appraiser is mutually agreed to under subclause (I), not later than 60 days after the date of enactment of this subsection—

"(aa) the Secretary of the Interior and the holders shall each designate a qualified appraiser; and

"(bb) the two designated appraisers shall select a third qualified appraiser to perform the appraisal with the advice and assistance of the designated appraisers and in accordance with the instructions that were mutually agreed on for the September 11, 1991, third party appraisal.

"(III) **DATE OF VALUATION.**—The value of the mineral and geothermal interests to be conveyed by each holder shall be calculated as of August 26, 1982, adjusted to reflect changes in the consumer price index for all urban consumers published by the Department of Labor as of the date on which the exchange is to be consummated pursuant to paragraph (7).

"(IV) **COSTS.**—The Secretary of the Interior shall bear the costs of the process established by this clause.

"(B) **TIMELY APPRAISAL REPORT.**—The appraisal report resulting from subparagraph (A) shall be presented to the Secretary of the Interior timely to permit the Secretary of the Interior to determine the value of the mineral and geothermal interests to be conveyed by each holder. Not later than the date that is 180 days after the date of enactment of this subsection, the Secretary of the Interior shall notify each holder of the determination.

"(C) **FAILURE OF PROCESS.**—If the Secretary of the Interior fails to make a determination under subparagraph (B) by the date that is 180 days after the date of enactment of this subsection or if any holder does not agree with the value determined by the Secretary of the Interior under subparagraph (B), one or more of the holders may petition the United States Court of Federal Claims for a determination of the value of the mineral and geothermal interests to be conveyed by the holders in accordance with this subsection. Subject to the right of appeal, a determination by the Court shall be binding for purposes of this subsection on all parties.

"(5) **EXCHANGE ACCOUNT.**—

"(A) **IN GENERAL.**—Notwithstanding any other provision of law, not later than 30 days after the completion of each exchange with a holder required by this subsection, the Secretary of the Interior shall establish, with the Minerals Management Service of the Department of the Interior, an exchange account for the holder for monetary credits described in paragraph (3).

"(B) **INITIAL BALANCE.**—The initial balance of credits in each holder's account shall be equal to the value as determined under paragraph (4) of the mineral and geothermal interests conveyed by the holder in the exchange.

"(C) **USE OF CREDITS.**—The balance of credits in a holder's account shall be available to the holder or its assigns for the purposes of paragraph (3). The Secretary of the Interior shall adjust the balance of credits in the account to reflect payments made pursuant to paragraph (3).

"(D) **TRANSFER OF CREDITS.**—

"(i) **IN GENERAL.**—A holder may transfer or sell any credits in the holder's account to another person.

"(ii) **USE OF TRANSFERRED CREDITS.**—Credits transferred under clause (i) may be used in accordance with this subsection only by a person that is qualified to bid on, or that holds, a mineral, oil, or gas lease under the Mineral Leasing Act (30 U.S.C. 181 et seq.), the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

"(iii) **NOTIFICATION.**—A holder shall notify the Secretary of the Interior of any transfer or sale under this subparagraph promptly after the transfer or sale.

"(E) **TIME LIMIT ON USE OF CREDITS.**—On the date that is 5 years after an account is created under subparagraph (A), the Secretary of the Interior shall terminate the account and any remaining credits in the account shall become unusable.

"(6) **TITLE TO INTERESTS.**—On the date of the establishment of an exchange account for a holder under paragraph (5)(A), title to any mineral and geothermal interests that are held by the holder and are to be acquired by the Secretary of the Interior under paragraph (2) shall transfer to the United States.

"(7) **COMPLETION OF EXCHANGES.**—The Secretary of the Interior shall complete the exchanges under paragraph (2) not later than 180 days after the date of enactment of this subsection or as soon as practicable after completion of the process described in paragraph (4)(C)."

The committee amendment was agreed to.

The bill (S. 638), as amended, was deemed read the third time and passed.

## NATIONAL DISCOVERY TRAILS ACT OF 1998

The Senate proceeded to consider the bill (S. 1069) entitled the "National Discovery Trails Act of 1997, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "National Discovery Trails Act of 1998".

### SEC. 2. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

(a)(1) Section 3(a) of the National Trails System Act (16 U.S.C. 1242(a)) is amended by inserting after paragraph (4) the following:

"(5) National discovery trails, established as provided in section 5, which will be extended, continuous, interstate trails so located as to provide for outstanding outdoor recreation and travel and to connect representative examples of America's trails and communities. National discovery trails should provide for the conservation and enjoyment of significant natural, cultural, and historic resources associated with each trail and should be so located as to represent metropolitan, urban, rural, and back country regions of the Nation. Any such trail may be designated on federal lands and, with the consent of the owner thereof, on any non federal lands."

(2) **FEASIBILITY REQUIREMENTS; COOPERATIVE MANAGEMENT REQUIREMENT.**—Section 5(b) of such Act (16 U.S.C. 1244) is amended by adding at the end the following new paragraph:

"(12) For purposes of subsection (b), a trail shall not be considered feasible and desirable for designation as a national discovery trail unless it meets all of the following criteria:

"(A) The trail must link one or more areas within the boundaries of a metropolitan area (as those boundaries are determined under section 134(c) of title 23, United States Code). It should also join with other trails, connecting the National Trails System to significant recreation and resources areas.

"(B) The trail must be supported by at least one competent trailwide nonprofit organization. Each trail should have extensive local and trailwide support by the public, by user groups, and by affected State and local governments.

"(C) The trail must be extended and pass through more than one State. At a minimum, it should be a continuous, walkable route.

"(13) The appropriate Secretary for each national discovery trail shall administer the trail in cooperation with at least one competent trailwide volunteer-based organization. Where the designation of discovery trail is aligned with other units of the National Trails System, or State or local trails, the designation of a discovery trail shall not affect the protections or authorities provided for the other trail or trails, nor shall the designation of a discovery trail diminish the values and significance for which those trails were established."